

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Clark W. Hinsdale Jr. Trust
Bingham Brook Road**

**Final Plan Application
For A
Subdivision Amendment
Application # PC-10-30**

Background

The applicant owns three parcels; two of the parcels were created by a subdivision by Nancy Hinsdale in 1989, and the third parcel was created by a subdivision by Arthur Burleigh also in 1989. Sketch Plan Review for the current proposal was held on June 17, 2010 and a site visit was held the same day.

Application

Materials submitted with the applications are listed in Appendix A.

Public Hearing

A public hearing for this application was held on August 19, 2010. Clark Hinsdale, III was present representing the applicant. Peter Trono, the prospective buyer of one of the parcels, was also present. No other interested parties were present or submitted written comments in advance of the hearing.

Regulations in Effect

Town Plan, amended March, 2008

Land Use Regulations adopted March, 2009.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The applicant owns Lot 1 and Lot 4 of the Nancy Hinsdale subdivision approved on October 10, 1989 for which the plat is recorded in map slide 72; and the applicant also owns Lot 9 of the Arthur Burleigh Cedarcrest at Spear subdivision approved on September 13, 1988, for which the plat is recorded in map slide 67.
2. The applicant is proposing to change the boundaries of the lots so that Lot 1 will be reduced in size by approximately four acres, Lot 4 will gain approximately four acres from Lot 1 but lose approximately four acres to Lot 9 (therefore remain approximately the same size), and Lot 9 will increase in size by approximately four acres.
3. Lot 9 is currently 21.03 acres, and is approved as a building lot for one dwelling. 13.86 acres of Lot 9 is under an Open Space Agreement and the remaining 7.17 acres are considered the building envelope.
4. The four acres to be added to Lot 9 are adjacent to the building envelope. However, the applicant stated at the hearing that the four acres to be added to Lot 9 are not proposed to be developed, and they are not proposed to allow an additional building lot be created

from Lot 9, and he suggested such restrictions be included as conditions of any approval of the application.

5. The proposed boundary change to Lot 1 will result in the removal of the primary wastewater disposal area from Lot 1 (as designated on the approved plat). The designated replacement wastewater disposal area will remain on Lot 1.
6. The applicant stated that he has evaluated soils in the vicinity of the primary wastewater disposal area on Lot 1, and found that there is significant capacity for wastewater disposal. The applicant further stated that he believes there is additional capacity on Lot 1 even if the primary wastewater disposal area is removed.
7. The Planning Commission finds there is a reasonable likelihood that Lot 1 will have sufficient wastewater disposal capacity for at least one dwelling.
8. The proposed change of lot boundaries will not result in any substantive change to the previously approved subdivisions by Nancy Hinsdale and Arthur Burleigh provided the acreage added to Lot 9 is not used for development or considered to allow a further subdivision of Lot 9.
9. The applicant has not submitted a survey showing the proposed revision to the lots.

Decision

Based on these Findings, the Planning Commission approves the Final Plan Application for the proposed Subdivision Amendment with the following conditions:

1. Two paper copies (one full size and one 11" x 17") and a mylar (18" x 24") of a survey depicting all three parcels involved with the application, and the current and proposed boundary lines and the current and proposed acreage, will be submitted to the Planning Commission for review within 160 days; the applicant will record the mylar of the survey in the Charlotte Land Records within 180 days. The survey will also include a note as stated in Condition 3 below.
2. Prior to the submission of the mylar in accordance with Condition #1 above, the applicant shall submit a letter from the surveyor indicating that he has set the survey markers or pins in the field as indicated on the survey. If the survey markers or pins cannot be set at this time because of frozen ground, the applicant shall submit a letter from the surveyor indicating that he will set the markers or pins when the ground thaws and has been paid to do so.
3. The area added to Lot 9 shall not be included in the building envelope on Lot 9, and it shall not be considered to provide density acreage for Lot 9 to be further subdivided.
4. All conditions of previous approvals and amendments granted to Nancy Hinsdale and Arthur Burleigh and their successors, heirs and assigns as they may pertain to the affected lots will remain in full force and effect.

Additional Conditions: All plats, plans, drawings, documents, testimony, evidence and conditions listed above or submitted at the hearing and used as the basis for the Decision to grant permit shall be binding on the applicant, and his/her/its successors, heirs and assigns. Projects shall be completed in accordance with such approved plans and conditions. Any deviation from the approved plans shall constitute a violation of permit and be subject to enforcement action by the Town.

This decision may be appealed to the Vermont Environmental Court by the applicant or an

interested person who participated in the proceeding. Such appeal must be taken within 30 days of the date of the 4th signature below, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Members Present at the Public Hearing on August 19: Jeff McDonald, Peter Joslin, Eleanor Russell, Linda Radimer and Gerald Bouchard

Vote of Members after Deliberations:

The following is the vote for or against the application, with conditions as stated in this Decision:

- 1. Signed:_____ For / Against Date Signed:_____
- 2. Signed:_____ For / Against Date Signed:_____
- 3. Signed:_____ For / Against Date Signed:_____
- 4. Signed:_____ For / Against Date Signed:_____
- 5. Signed:_____ For / Against Date Signed:_____
- 6. Signed:_____ For / Against Date Signed:_____
- 7. Signed:_____ For / Against Date Signed:_____

APPENDIX A

The following items were submitted in association with the application:

- 1. An application form for a Subdivision Amendment and appropriate fee.
- 2. A plan by Shiretown Engineering Land Planning & Surveying entitled “Boundary Line Adjustments to Hinsdale Subdivision Circa 1989, Bingham Brook Road, Charlotte, Vermont” dated July 12, 2010, no revisions.
- 3. An e-mail from CSHinsdale to Tom Mansfield dated June 9, 2010 @ 8:41 AM regarding “Re: Bingham Brook Farm proposed subdivision amendments”